

18 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

125 MAINE REVENUE SERVICES

Chapter 104: ~~ELECTRONIC FILING OF MAINE TAX RETURNS~~

SUMMARY: This rule describes the requirements for ~~mandatory electronic filing of certain Maine tax returns, including mandatory electronic filing of certain Maine tax returns, and requirements of software developers to develop Maine tax return forms.~~

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.01 DEFINITIONS

As used in this rule, the following terms have the following meanings:

- A. **“Electronic Filing”** or **“Electronic data submission”** means the use of a computer, internet, or any other means of electronic submission of data to transmit return or document information in a manner prescribed by the State Tax Assessor (“Assessor”). Specifications for the manner of the transfer of data may be found on the Maine Revenue Services (“MRS”) website or by contacting MRS Maine Revenue Services.
- B. **“Original Maine tax return”** means Maine individual income tax returns, sales/use/service provider tax returns, or income tax withholding returns (Forms 941ME and 941/ C1ME) and annual reconciliation of Maine income tax withheld (Form W-3ME), but does not include amended versions of these returns.
- C. **“Person”** means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, receiver, assignee, or any other group or combination acting as a unit, other than the State or Federal Government or any political subdivision or agency of either government.

- D.** “Prepares” means completes original Maine tax returns directly or through employees.
- E.** “Software developer” means a person that develops computer -generated tax forms or payroll services that are used in connection with Maine tax laws.
- ~~F.~~ E.** “Tax return preparer” means a person who prepares original Maine tax returns, or who employs one or more employees to complete original Maine tax returns. An employee of a tax return preparer is not considered a tax return preparer for purposes of this rule.
- G.** “Threshold amount” means for the taxable year the sum of the applicable Maine standard deduction amount, the Maine personal exemption amount for each taxpayer and for each dependent, and the lowest possible dollar amount of Maine taxable income, as defined under 36 M.R.S.A. § 5121, to which the 6.5% rate income tax bracket applies for that taxpayer’s filing status.

.02 GENERAL FILING REQUIREMENTS

A. Individual Income Tax.

- 1.** Resident individuals. Unless an exception applies, a Maine income tax return is required to be filed by every resident individual:
- (a). Who is required to file a federal income tax return for the taxable year; or
- (b). Who has a Maine individual income tax liability (before tax credits) for the taxable year under Title 36, Part 8.
- 2.** Exceptions. Taxpayers otherwise required to file under paragraph 1 are not required to file a Maine income tax return under the following exceptions:
- (a) A resident individual who does not have a Maine income tax liability pursuant to Part 8 for the taxable year and who filed a federal income tax return for the taxable year for the sole purpose of claiming a credit under Internal Revenue Code section 32; and
- (b) For taxable years beginning on or after January 1, 2013, a resident individual whose federal adjusted gross income is less than the “threshold amount,” and who is not subject to any of the addition modifications under 36 M.R.S.A. § 5122(1).

.02 .03 MANDATORY PARTICIPATION - individual income tax returns

- A.** For returns filed in calendar year 2008, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:
- 1.** Where for calendar year 2007 the tax return preparer prepared fewer than 200 original Maine tax returns for individual income tax that are eligible for electronic filing;

2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records; or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section ~~.05~~ .06.

B. For returns filed in calendar year 2009, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. Where for calendar year 2008 the tax return preparer prepared fewer than 100 original Maine tax returns for individual income tax that are eligible for electronic filing;
2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records; or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section ~~.05~~ .06.

C. For returns filed in calendar year 2010, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. Where for the previous calendar year, the tax return preparer prepared fewer than 50 original Maine tax returns for individual income tax that are eligible for electronic filing;
2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records; or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section ~~.05~~ .06.

D. For returns filed in calendar year 2011 or any subsequent calendar year, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. When for the previous calendar year, the tax return preparer prepared 10 or fewer original Maine tax returns for individual income tax that are eligible for electronic filing;
2. When the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records; or
3. When the tax return preparer has been granted a waiver from mandatory participation under section ~~.05~~ .06.

.03 .04 MANDATORY PARTICIPATION – sales, use and service provider tax returns

- A. For returns filed in calendar year 2008, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of \$200,000 or more for any one tax for the 12-month period ending September 30, 2007, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.
- B. For returns filed January 1, 2009₂ through March 31, 2009, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of \$100,000 or more for any one tax for the 12-month period ending September 30, 2008, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.
- C. A person preparing original Maine tax returns for sales, use or service provider tax that are required to be filed monthly must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission effective for returns filed on or after April 1, 2009₂ and covering tax periods beginning on or after that date.
- D. A person preparing original Maine tax returns for sales, use or service provider tax that are required to be filed quarterly must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission effective for returns filed on or after January 1, 2010₂ and covering tax periods beginning on or after that date.
- E. A person preparing original Maine tax returns for sales, use or service provider tax that are required to be filed on a semi-annual basis must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission effective for returns filed on or after January 1, 2011₂ and covering tax periods beginning on or after that date.
- F. A person preparing original Maine tax returns for sales, use or service provider tax must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission effective for returns filed on or after January 1, 2012₂ and covering tax periods beginning on or after that date.

.04 .05 MANDATORY PARTICIPATION - income tax withholding, competitive skills scholarship fund, and unemployment compensation insurance returns

- A. For returns filed for calendar year 2008 withholding:
 - 1. Employers with 75 or more employees in 2008 that are subject to Maine income tax withholding must electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding for 2008.
 - 2. Third-party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 75 or more employees in 2008 that are subject to Maine income tax

withholding must electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding for 2008.

3. Third-party filers or payroll processors, as defined in 10 M.R.S.A., Chapter 222, with 75 or more client employers in 2008 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2008.
4. Non-wage payers with 75 or more payees in 2008 that are subject to Maine income tax withholding under 36 M.R.S.A. §5255-B must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2008.
5. Pass-through entities with 75 or more nonresident members in 2008 that are subject to pass-through withholding on Maine source income must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2008.

B. For returns filed for withholding, competitive skills scholarship fund, and unemployment compensation insurance for the first calendar quarter in 2009:

1. Employers with 50 or more employees in the first calendar quarter in 2009 that are subject to Maine income tax withholding must, for that calendar quarter, electronically file all original Maine tax returns.
2. Third-party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 50 or more employees the first calendar quarter in 2009 that are subject to Maine income tax withholding must, for that calendar quarter, electronically file all original Maine tax returns including the annual reconciliation for Maine income tax withholding.
3. Third-party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, with 50 or more client employers in the first calendar quarter in 2009 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must, for that calendar quarter, electronically file all original Maine quarterly tax returns, including the annual reconciliation of Maine income tax withholding.
4. Non-wage payers with 50 or more payees in the first calendar quarter in 2009 that are subject to Maine income tax withholding under 36 M.R.S.A. §5255-B must, for that calendar quarter, electronically file all

original Maine quarterly tax returns including the annual reconciliation of Maine income tax withholding.

5. Pass-through entities with 50 or more nonresident members in the first calendar quarter in 2009 that are subject to pass-through withholding on Maine-source income must, for that calendar quarter, electronically file all original Maine quarterly tax returns, including the annual reconciliation of Maine income tax withholding.

C. For returns filed for withholding, competitive skills scholarship fund, and unemployment compensation insurance for the second, third, and fourth calendar quarters in 2009:

1. Employers with 10 or more employees in the second, third, and fourth calendar quarters in 2009 that are subject to Maine income tax withholding must, for those calendar quarters, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
2. Third-party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 10 or more employees in the second, third, and fourth calendar quarters in 2009 that are subject to Maine income tax withholding must, for those calendar quarters, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
3. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, with 10 or more client employers in the second, third, and fourth calendar quarters in 2009 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must, for those calendar quarters, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
4. Non-wage payers with 10 or more payees in the second, third, and fourth calendar quarters in 2009 that are subject to Maine income tax withholding under 36 M.R.S.A. §5255-B must, for those calendar quarters, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
5. Pass-through entities with 10 or more nonresident members in the second, third, and fourth calendar quarters in 2009 that are subject to pass-through withholding on Maine-source income must, for that calendar year, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.

D. For returns filed for calendar year 2010 withholding, competitive skills scholarship fund, and unemployment compensation insurance:

1. Employers with 5 or more employees in 2010 that are subject to Maine income tax withholding must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2010.
2. Third-party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 5 or more employees in 2010 that are subject to Maine income tax withholding must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2010.
3. Third-party filers or payroll processors, as defined in 10 M.R.S.A., Chapter 222, with 5 or more client employers in 2010 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2010.
4. Non-wage payers with 5 or more payees in 2010 that are subject to Maine income tax withholding under 36 M.R.S.A. §5255-B must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2010.
5. Pass-through entities with 5 or more nonresident members in 2010 that are subject to pass-through withholding on Maine-source income must electronically file all original Maine quarterly tax returns and annual reconciliation for Maine income tax withholding of 2010.

E. For returns required to be filed for calendar years after 2010 with respect to withholding, competitive skills scholarship fund, and unemployment compensation insurance:

1. Employers in any calendar year after 2010 that are registered for Maine income tax withholding must electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
2. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with any employees in any calendar year after 2010 that are subject to Maine income tax withholding must, for that calendar year, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
3. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, with any client employers in any calendar year after 2010 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or

unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must, for that calendar year, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.

4. Non-wage payers with any payees in any calendar year after 2010 that are subject to Maine income tax withholding under 36 M.R.S.A. §5255-B must, for that calendar year, electronically file all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.
5. Pass-through entities with any nonresident members in any calendar year after 2010 that are subject to pass-through withholding on Maine-source income must, for that calendar year, electronically file Form 941P ~~all original Maine quarterly tax returns and annual reconciliation of Maine income tax withholding.~~

.05.06 REQUEST FOR WAIVER FROM MANDATORY PARTICIPATION

The ~~State Tax~~ Assessor shall waive the requirement to participate where the Assessor determines that the requirement causes undue hardship. A person subject to mandatory participation in sections .02, .03, or .04 may request a waiver from participation by submitting a waiver request in writing that clearly indicates the tax-type for which the waiver is requested, the undue hardship that the person states will be caused by complying with the electronic filing requirements, and the date by which the person intends to be in compliance. A determination by the ~~State Tax~~ Assessor under this section is subject to the administrative appeal provisions of 36 M.R.S.A. §151.

.06 .07 PENALTIES

Failure to file returns electronically as required by this rule is subject to the penalty under 36 M.R.S.A. §187-B (5-B). Penalties shall be waived or abated for reasonable cause pursuant to 36 M.R.S.A. §187-B(7).

.08 SOFTWARE SPECIFICATIONS

For forms filed on or after January 1, 2013, software developers are required by this rule to include 2-D barcodes pursuant to MRS specifications on all Maine substitute forms produced by the software developer. The Assessor shall waive the requirement to participate where the Assessor determines that the requirement causes undue hardship. A person subject to this subsection may request a waiver from participation by submitting a waiver request in writing that clearly indicates the undue hardship that the person states will be caused by complying with this section. A determination by the Assessor under this section is not subject to the administrative appeal provisions of 36 M.R.S.A. §151.

.09 APPLICATION DATE

Except where otherwise stated, this Rule applies to tax years beginning on or after January 1, 2012.

STATUTORY AUTHORITY: 36 M.R.S.A. §§193, 5220(7).

EFFECTIVE DATE:

February 11, 2008 – filing 2008-68

AMENDED:

November 21, 2008

December 16, 2008 – filing 2008-576

March 1, 2010 – filing 2010-49

October 31, 2010 – filing 2010-522